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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

THE NORTHERN CALIFORNIA GOLF
ASSOCIATION, a California Corporation;
POPPY HOLDING, INC., a California
Corporation,

Plaintiffs,

vs.

TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA, a Connecticut
Corporation; and DOES 1 through 50,

Defendants.

CASE NO. _____

**DEFENDANT TRAVELERS CASUALTY
AND SURETY COMPANY OF AMERICA'S
NOTICE OF REMOVAL TO FEDERAL
COURT**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA, SAN JOSE DIVISION:**

Defendant TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
(hereinafter "TRAVELERS"), file this Notice under the provisions of 28 U.S.C. §§ 1441, 1446, and
Federal Rules of Civil Procedure, Rule 81(c).

STATEMENT OF FACTS ENTITLING DEFENDANT TO REMOVAL

Defendant TRAVELERS files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 &
1446, and removes this action to the United States District Court for the Northern District of
California, for the following reasons:

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4841-4810-6789.1

1 1. This Court has subject matter jurisdiction of this action under 28 U.S.C. § 1332, and is
2 one which may be removed to this Court by Defendant TRAVELERS pursuant to the provisions of 28
3 U.S.C. §1441(b) in that it is a civil action between citizens of different States, and the amount in
4 controversy as alleged in the complaint exceeds the sum of \$75,000, exclusive of interest and costs.

5 2. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1441(a)
6 because Defendant TRAVELERS removes to the district court of the United States for the district and
7 division embracing the place where such action is pending in state court, the Superior Court of the
8 State of California in and for the County of Monterey.

9 3. On June 10, 2015, Plaintiffs THE NORTHERN CALIFORNIA GOLF
10 ASSOCIATION and POPPY HOLDING, INC. (hereinafter "Plaintiffs"), by and through their
11 attorney of record, Kathryn C. Curry, commenced a civil action in the Superior Court of the State of
12 California in and for the County of Monterey against Defendant TRAVELERS CASUALTY AND
13 SURETY COMPANY OF AMERICA, Monterey County Superior Court Case No. M132290. A true
14 and correct copy of the summons and complaint is attached as **Exhibit A**.

15 4. Service of summons and complaint of the above-referenced state court action was
16 accomplished on June 15, 2015. Thus, the time limit for removal set forth in 28 U.S.C. § 1446(b) has
17 been satisfied.

18 5. The basis for removal is that Plaintiffs, California Corporations with their principal
19 place of business in Pebble Beach, California, are citizens and residents of the State of California,
20 while Defendant TRAVELERS is a corporation organized and existing under the laws of the State of
21 Connecticut, with its principal place of business in Hartford, Connecticut. This Court therefore has
22 original jurisdiction of this action under 28 U.S.C. § 1332.

23 6. In their complaint the Plaintiffs allege that a policy of insurance issued by
24 TRAVELERS to the NORTHERN CALIFORNIA GOLF ASSOCIATION provides coverage to them
25 for certain investigation and legal costs. Plaintiffs have separately claimed that these amounts exceed
26 \$83,000, net of the subject insurance policy's deductible. They contend that TRAVELERS is
27 obligated to pay these amounts. They further seek attorneys fees, exemplary damages and other
28

1 damages, as set forth in their Complaint. Thus, the amount of Plaintiffs' claim, exclusive of interest
2 and costs exceeds \$75,000, as required for removal pursuant to 28 U.S.C. §1332.

3 **WHEREFORE**, Defendant TRAVELERS respectfully prays that this Notice of Removal be
4 deemed good and sufficient, and that Case No. M132290 be removed from the Superior Court of
5 California, County of Monterey, to the docket of this Honorable Court.

6 DATED: July 14, 2015

LEWIS BRISBOIS BISGAARD & SMITH LLP

7 By: /s/ Roger S. Raphael

8 JULIAN J. PARDINI

9 ROGER S. RAPHAEL

Attorneys for Defendants TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA

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EXHIBIT A

COPY

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

TRAVELERS CASUALTY AND SURETY COMPANY OF
AMERICA, Connecticut Corporation; and DOES 1 through 50

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

The Northern California Golf Association, a California Corporation;
Poppy Holding Inc., a California Corporation, and DOES 1 through 50

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

JUN 10 2015

TERESA A. RISI
CLERK OF THE SUPERIOR COURT
DEPUTY

CARMEN B. OROZCO

BY FAX

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en este corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto al desee que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.suporte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su salario, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.suporte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of California in and for the County of Monterey
1200 Agujito Road, Monterey, CA 93940

CASE NUMBER:
(Número del Caso):

132290

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Kathryn C. Curry, GCA Law Partners LLP, 2570 W. El Camino Real, Ste 510 Mountain View, CA 94040

DATE: JUN 10 2015
(Fecha)

TERESA A. RISI

Clerk, by
(Secretario)

CARMEN B. OROZCO

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(REAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.2. ☐ as the person sued under the fictitious name of (specify):3. ☒ on behalf of (specify): **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**under: ☒ CCP 418.10 (corporation)☐ CCP 418.20 (defendant corporation)☐ CCP 418.40 (association or partnership)☐ other (specify):4. ☐ by personal delivery on (date):☐ CCP 418.60 (minor)☐ CCP 418.70 (conservatee)☐ CCP 418.90 (authorized person)

COPY

FILED

JUN 10 2015

TERESA A. RISI
CLERK OF THE SUPERIOR COURT
DEPUTY
CARMEN B. OROZCO

KATHRYN C. CURRY (SBN 157099)
E. DAVID MARKS (SBN 136567)
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Attorneys for Plaintiffs The Northern California
Golf Association and Poppy Holding, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MONTEREY

GCA LAW PARTNERS LLP
Mountain View, California

THE NORTHERN CALIFORNIA GOLF
ASSOCIATION, a California
Corporation; POPPY HOLDING, INC.,
a California Corporation;

Plaintiffs,

v.

TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA, a
Connecticut Corporation; and DOES 1
through 50;

Defendants.

CASE NO. 132290

COMPLAINT FOR:

1. BREACH OF CONTRACT
2. BREACH OF THE IMPLIED
COVENANT OF GOOD FAITH AND
FAIR DEALING
3. VIOLATION OF BUSINESS AND
PROFESSIONS CODE SECTION
17200
4. DECLARATORY RELIEF

DEMAND FOR JURY TRIAL

CASE PROGRESS CONFERENCE

DATE: 6/10/15

TIME: 9:00 AM

COURTROOM: 11

Plaintiffs THE NORTHERN CALIFORNIA GOLF ASSOCIATION and POPPY
HOLDING, INC. complain of defendants, and each of them, as follows:

PARTIES

1. Plaintiffs THE NORTHERN CALIFORNIA GOLF ASSOCIATION and
POPPY HOLDING, INC. (hereinafter collectively referred to as "Plaintiffs") are, and at
all times mentioned herein, California corporations with their principal place of
businesses in Pebble Beach, California.

COMPLAINT

BY FAX

1 2. Plaintiffs are informed and believe and thereon allege that at all relevant
2 times Defendant TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
3 (hereafter "TRAVELERS") was a Connecticut corporation qualified to do business and
4 engaged in the business of insurance in the State of California.

5 3. Plaintiffs are informed and believe and thereon allege that DOES 1 through
6 25 issued or sold one or more insurance policies to Plaintiffs and are corporations or
7 other entities authorized to do and are doing business in the State of California as
8 insurers. The true identities of DOES 1 through 25 are currently unknown to Plaintiffs
9 and Plaintiffs, therefore, pray for leave to amend this complaint to assert the proper
10 name of each insurer when its identity is discovered.

11 4. Plaintiffs are informed and believe and thereon allege that DOES 26
12 through 50 are persons, corporations or other entities who are authorized to do and are
13 doing business in the State of California. Each of the DOES 26 through 50 was the
14 managerial agent, employee, predecessor, successor, joint-venturer, co-conspirator,
15 alter-ego, and/or representative of TRAVELERS or identified as DOES 1 through 25, and
16 acted with the permission, authorization and/or ratification and consent of the other
17 Defendants. The true identities of DOES 26 through 50 are currently unknown to
18 Plaintiffs and Plaintiffs, therefore, pray for leave to amend this Complaint to assert the
19 proper name of each DOE defendant when its identity is discovered.

20 5. Plaintiffs are informed and believe, and thereon allege, that each
21 fictitiously named defendant is in some way responsible for, participated in, or
22 contributed to the matters of which Plaintiffs complain and has legal responsibility for
23 those matters.

24 6. Plaintiffs are informed and believe and thereon allege that, at all times
25 relevant to the allegations contained in this complaint, there exists and existed such a
26 unity of interest, ownership and control between defendants TRAVELERS and DOES 1-
27 50 such that there was no separateness or individuality of these defendants. As a result
28 of this unity of ownership, control or interest between and among the defendants,

1 adherence to the fiction of any of their separate existences would, under the
 2 circumstances in this case, sanction fraud and promote injustice, unfairness and
 3 inequity. As such, Plaintiffs are informed and believe and thereon allege that
 4 TRAVELERS and DOES 1-50 are the alter egos of the other.

5 VENUE

6 7. The contracts alleged in this complaint were entered into and were to be
 7 performed in Monterey County, California.

8 8. By this Complaint, Plaintiffs are seeking in excess of the jurisdictional
 9 minimum of this court.

10 COMMON FACTUAL ALLEGATIONS

11 9. TRAVELERS issued a Wrap+ policy, no. 105723993, to Plaintiffs, effective
 12 January 1, 2013 through January 1, 2014 (the "Policy"). A true and correct copy of the
 13 Policy is attached hereto as Exhibit A.

14 10. The Policy contains the following liability coverages:

- 15 • Directors and Officers Liability;
- 16 • Employment Practices Liability; and
- 17 • Fiduciary Liability.

18 11. The limit of liability for all claims is \$2,000,000 and there is a \$35,000
 19 retention limit for each claim.

20 12. On May 21, 2013, Dan Hansford, President of Plaintiffs' Board of Directors
 21 (the "Board") received an email from an employee regarding his own and other
 22 employees' complaints about a supervisor's conduct. The employee requested the Board
 23 conduct an independent investigation.

24 13. In compliance with its legal obligations under the Fair Employment and
 25 Housing Act, Cal. Gov. Code section 12940(j) and (k), the Board promptly undertook an
 26 independent investigation. The Board requested its outside counsel, GCA Law Partners
 27 LLP ("GCA"), to advise on the situation and an independent investigator, Confidante, to
 28 conduct an independent investigation.

1 14. On June 3, 2013, Plaintiffs, through its attorneys, tendered the claim to
2 TRAVELERS through Interwest Insurance Services, Inc. (the NCGA's insurance broker).
3 ("First Claim.") GCA advised Interwest that Confidante had been retained to conduct an
4 independent investigation and that GCA, Plaintiffs' employment counsel, was providing
5 legal representation with respect to the matter. Plaintiffs requested TRAVELERS'
6 approval for GCA to handle the investigation.

7 15. On June 5, 2013, TRAVELERS acknowledged receipt of the First Claim,
8 which was assigned to William Thomas for handling. That day, Mr. Thomas asked the
9 NCGA for additional information, which was provided.

10 16. By letter dated June 11, 2013, TRAVELERS denied coverage for the First
11 Claim based on a "preliminary evaluation of coverage." TRAVELERS determined no
12 "Employment Claim" has been made against an Insured within the meaning of the
13 Policy. Although the employees' complaints constituted "Workplace Harassment," the
14 email did not make a "demand." As such, TRAVELERS determined the matter does not
15 rise to the level of a "Claim" within the meaning of the Policy.

16 17. On July 1, 2013, Plaintiffs, through their attorneys, sent a letter to
17 TRAVELERS requesting it to reconsider its coverage decision. Plaintiffs argued the
18 Policy defined an "Employment Claim" as "a written demand for monetary damages or
19 non-monetary relief" and the employee's email demanded that an independent
20 investigation be conducted. The legally-required investigation that pursued was a form
21 of non-monetary relief.

22 18. The next day, on July 2, 2013, William Thomas from TRAVELERS sent a
23 letter denying the request for reconsideration. Although an investigation may constitute
24 "other monetary relief," TRAVELERS concluded no demand had been made because the
25 author of the email stated only that a Human Resources consultant had recommended
26 that an investigation be conducted. Accordingly, TRAVELERS continued to maintain its
27 coverage position from June 11, 2013.

28 19. On July 10, 2013, after the independent investigation was completed,

1 Plaintiffs terminated the employment of the supervisor who was the subject of the
2 investigation.

3 20. On July 12, 2013, the attorney for the terminated supervisor sent a letter to
4 Plaintiffs claiming his client had been wrongfully terminated and demanded mediation.
5 (The "Employment Claim.")

6 21. On July 17, 2013, Plaintiffs tendered the Employment Claim to
7 TRAVELERS.

8 22. On August 26, 2013, TRAVELERS accepted the defense of the Employment
9 Claim as of July 17, 2013, the date of tender. TRAVELERS accepted the defense,
10 however, under a reservation of rights.

11 23. On August 30, 2013, Plaintiffs, through their attorneys, requested that
12 TRAVELERS provide independent ("*cum is*") counsel pursuant to California Civil Code
13 §2860 (b) for the defense of the Employment Claim. TRAVELERS' orally denied the
14 request.

15 24. On or about October 15, 2013, the file was transferred by TRAVELERS to
16 its chosen panel counsel, Gordon & Rees. GCA assisted in the transfer of the case to
17 Gordon & Rees and spent time getting Gordon & Rees up to speed at Gordon & Rees'
18 request.

19 25. On October 23, 2013, TRAVELERS sent a letter to Plaintiffs formally
20 denying the request for independent counsel.

21 26. In March 14, 2014, a dispute arose between TRAVELERS and Plaintiffs
22 over the satisfaction of the \$35,000 deductible for the Employment Claim. Plaintiffs
23 contended they had fully paid the deductible.

24 27. After an unsuccessful mediation of the Employment Claim, on August 13,
25 2014, Plaintiffs received a demand for arbitration along with a complaint in arbitration
26 in the Employment Claim.

27 28. On September 18, 2014, Plaintiffs forwarded the arbitration complaint to
28 TRAVELERS along with a request for reconsideration of TRAVELERS' denial of the First

1 Claim. Plaintiffs also renewed their request for *cum is* counsel.

2 29. On October 3, 2014, TRAVELERS sent a supplemental coverage letter
3 asserting new coverage defenses to the Arbitration Complaint. TRAVELERS again
4 denied Plaintiffs' request for *cum is* counsel and re-affirmed its denial of the Prior Claim.

5 30. After a conference call with Plaintiffs' attorneys, TRAVELERS sent another
6 letter dated October 9, 2014, continuing to uphold its prior coverage decisions.

7 31. On November 10, 2014, Plaintiffs, through their attorneys, sent another
8 letter contesting the legal and factual assertions in TRAVELERS' October 9, 2014
9 correspondence. Plaintiffs also set forth legal authority to support its coverage position.

10 32. TRAVELERS never responded to Plaintiffs' November 10, 2014 letter.

11 **FIRST CAUSE OF ACTION**
12 **(Breach of Contract)**

13 33. Plaintiffs allege and incorporate by reference all of the allegations
14 contained in paragraphs 1 through 32, inclusive.

15 34. Plaintiffs have performed all the conditions, covenants and promises on
16 their part to be performed as required by the Policy identified herein, except as excused
17 by TRAVELERS' acts or omissions.

18 35. TRAVELERS has failed and refused, and continues to fail and refuse, to
19 perform the conditions of the Policy, on its part, in that TRAVELERS has failed and
20 refused to accept coverage for the First Claim; failed to give Plaintiffs credit towards the
21 deductible for fees and costs paid by Plaintiffs; and failed to appoint *cum is* counsel as
22 requested by Plaintiffs for the Employment Claim.

23 36. As a legal result of TRAVELERS' breach of contract, Plaintiffs have
24 sustained compensatory damages, incidental damages and other consequential damages
25 legally caused by TRAVELERS' acts or omissions in an amount according to proof at
26 trial.

27 37. As a legal result of defendant's breach of the insurance policies alleged
28 herein and refusal to pay the insurance benefits required by the policies, Plaintiffs were

1 required to employ an attorney to obtain said policy benefits and is entitled to recovery
2 of attorney's fees and costs incurred to recover said policy benefits.

3 WHEREFORE, Plaintiffs demand judgment as hereinafter set forth.

4 **SECOND CAUSE OF ACTION**

5 **(Breach of Implied Covenant
6 of Good Faith and Fair Dealing)**

7 38. Plaintiffs allege and incorporate by reference all of the allegations
8 contained in paragraphs 1 through 37, inclusive.

9 39. An implied duty of good faith and fair dealing was, and is, implied in each
10 of the insurance policies alleged herein by reason of TRAVELERS' status as an insurer
11 providing insurance coverage to Plaintiffs in the State of California.

12 40. TRAVELERS breached its duty of good faith and fair dealing by
13 unreasonably withholding the benefits due under the insurance policies alleged herein.

14 41. Plaintiffs are informed and believe, and thereon allege, that TRAVELERS,
15 and breached its duty of good faith and fair dealing in multiple ways, including, but not
16 limited to the following:

17 a. Wrongfully and unreasonably failing to pay the policy benefits due to
18 Plaintiffs;

19 b. Deliberately, unreasonably and unjustifiably failing to timely and fully pay
20 Plaintiffs' claim under the policy;

21 c. Unreasonably withholding full policy benefit payments from Plaintiffs in
22 bad faith, knowing Plaintiffs' claim for benefits under the policy to be valid;

23 d. Misrepresenting pertinent facts relating to the insurance coverage at issue;

24 e. Failing to timely and properly pay the policy benefits after liability for them
25 had become reasonably clear;

26 f. Failing to provide a timely and reasonable explanation of the basis upon
27 which policy benefits were withheld;

28 g. Compelling Plaintiffs to incur legal and other expenses to obtain insurance

GCA LAW PARTNERS LLP
Mountain View, California

benefits;

h. Imposing unreasonable demands and requests upon Plaintiffs, under all of the circumstances;

i. Failing to reasonably evaluate and assess information and data submitted by Plaintiffs;

j. Failing to acknowledge and act reasonably promptly upon communications with respect to the claim asserted by Plaintiffs arising under the policy;

k. Engaging in other acts or omissions constituting a breach of the duty of good faith and fair dealing resulting in the wrongful and unreasonable withholding of policy benefits due Plaintiffs.

42. Without any reasonable basis for doing so, and with full knowledge and/or conscious disregard of the consequences, TRAVELERS has failed and refused to act in good faith or act fairly toward Plaintiffs, and has, in bad faith, failed and refused to perform its obligations under the Policy, and under the Laws of the State of California.

43. Due to the unreasonable conduct of TRAVELERS, Plaintiffs have been deprived of proceeds legitimately due, have been forced to expend monies amounts in furtherance of a claim that was easily capable of resolution on a reasonably prompt basis, and have suffered substantial economic damage, and Plaintiffs still have not received proper payment under the policy.

44. TRAVELERS' willful conduct as described herein constitutes part of TRAVELERS' overall scheme to reduce the costs of legitimate insurance claims. TRAVELERS' conduct as described herein constitutes an illegal pattern and practice so pervasive as to amount to an unfair and unlawful business practice.

45. As a direct, proximate and legal result of said breaches of the covenant of good faith and fair dealing by TRAVELERS, Plaintiffs have been, and continue to be, damaged in an amount according to proof, and Plaintiffs have been required to expend attorney's fees and costs in pursuing relief to which they are entitled as a matter of law. Pursuant to *Brandt v. Superior Court* (1985) 37 Cal.3d 813, Plaintiffs are entitled to

1 attorney's fees and costs reasonably incurred to compel the payment of benefits due
2 under the policy.

3 46. As a further direct, proximate and legal result of the wrongful conduct of
4 TRAVELERS, Plaintiffs have also sustained other economic damages and other damages
5 in an amount to be proven at trial.

6 47. In doing the acts or omissions alleged herein, TRAVELERS acted
7 unreasonably and in conscious disregard to the rights of Plaintiffs. TRAVELERS ratified
8 the acts or omissions committed by its respective employees, agents and representatives.
9 Said conduct was performed in a manner to constitute oppression, fraud or malice and
10 entitles Plaintiffs to punitive and exemplary damages in an amount according to proof at
11 trial.

12 WHEREFORE, Plaintiffs demand judgment as hereinafter set forth.

13 **THIRD CAUSE OF ACTION**
14 **(Unfair Business Practices)**

15 48. Plaintiffs allege and incorporate by reference all of the allegations
16 contained in paragraphs 1 through 47, inclusive.

17 49. TRAVELERS' acts and practices, described herein, constitute unlawful,
18 unfair, or fraudulent business practices in violation of the Unfair Competition Law,
19 California Business & Professions Code sections 17200 et al.

20 50. TRAVELERS' acts and practices, described herein, caused specific
21 pecuniary harm to Plaintiffs in an amount to be proved at trial.

22 51. The above-described unfair, unlawful, and fraudulent business practices
23 conducted by TRAVELERS present a threat and likelihood of harm and deception to
24 members of the TRAVELERS public in that Plaintiffs are informed and believe that
25 TRAVELERS has systematically perpetrated and continues to perpetrate the unfair,
26 unlawful and fraudulent conduct upon members of the public by engaging in the
27 behavior described herein.

28 52. Pursuant to California Business and Professions Code sections 17200,

GCA LAW PARTNERS LLP
Mountain View, California

1 17203 and 17204, Plaintiffs seeks an order enjoining the Defendants from continuing
2 their unlawful, fraudulent, and deceptive business practices.

3 53. Plaintiffs also additionally request an order awarding Plaintiffs restitution
4 of all monies wrongfully acquired by TRAVELERS by means of such unlawful acts and
5 practices, so as to deter TRAVELERS and to rectify TRAVELERS' unfair and unlawful
6 practices and to restore any and all monies to Plaintiff by TRAVELERS, plus interest,
7 attorneys' fees and costs pursuant to, inter alia, California Code of Civil Procedure
8 section 1021.5.

9 54. The conduct alleged herein was willful, malicious, and oppressive, further
10 justifying an award of punitive damages for the purpose of deterring TRAVELERS from
11 similar conduct in the future.

12 **FOURTH CAUSE OF ACTION**
13 **(Declaratory Relief)**

14 55. Plaintiffs allege and incorporate by reference all of the allegations
15 contained in paragraphs 1 through 47, inclusive.

16 56. Pursuant to California Code of Civil Procedure § 1060, Plaintiffs seek a
17 declaration and order that TRAVELERS is obligated, under its insurance policy, to pay
18 all attorney's fees and costs incurred by Plaintiffs with respect to the First Claim.

19 57. Plaintiffs also seek a declaration and order that: (a) the deductible for the
20 Employment Claim has been fully satisfied; (b) TRAVELERS is required to pay
21 Plaintiffs (or credit the deductible) all legal fees and costs incurred by the GCA from the
22 time the Employment Claim was made until the defense was assigned by TRAVELERS to
23 Gordon & Rees; (c) TRAVELERS is required to pay Plaintiffs (or credit the deductible)
24 for the time charged by Plaintiffs' attorney to get Gordon & Rees up to speed; and (d)
25 TRAVELERS is required provide *cum is* counsel to Plaintiffs for the Employment Claim.

26 58. Plaintiffs allege on information and belief that Defendants dispute the
27 relief that Plaintiffs seek. Consequently, an actual and justiciable controversy exists
28 between Plaintiffs and TRAVELERS concerning TRAVELERS obligations under the

1 insurance policy at issue in this case.

2 59. A judicial declaration is necessary and appropriate at this time, and under
3 the circumstances alleged above, so that Plaintiffs may ascertain their rights under
4 TRAVELERS' insurance policies. A judicial declaration of Plaintiffs' rights under the
5 insurance policies at issue will also obviate seriatim litigation and a multiplicity of
6 actions that would otherwise result from the actual and justiciable controversy between
7 Plaintiffs and TRAVELERS concerning their respective rights and obligations under the
8 insurance policies.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment against TRAVELERS and DOES 1
11 through 50, and each of them, as follows:

- 12 1. For damages according to proof;
- 13 2. For special damages according to proof;
- 14 3. For a judicial order permanently enjoining Defendants from performing or
15 proposing to perform any of the aforementioned acts of unfair and deceptive business
16 practices pursuant to sections 17203 and 17204 of the Business and Professions Code;
- 17 4. For a judicial order of restitution and/or disgorgement of profits made by
18 Defendants as a result of the aforementioned acts of unfair and deceptive business
19 practices pursuant to sections 17203 and 17204 of the Business and Professions Code;
- 20 5. For punitive and exemplary damages according to proof;
- 21 6. A judicial declaration and order that:
 - 22 (a) Defendants are obligated, under their insurance policies, to pay all
23 attorney's fees and costs incurred by Plaintiffs with respect to the First Claim;
 - 24 (b) The \$35,000 deductible for the Employment Claim has been fully
25 satisfied;
 - 26 (c) Defendants are required to pay Plaintiffs (or credit the deductible) all
27 legal fees and costs incurred by the GCA from the time the Employment Claim
28 was made until the defense was assigned to Gordon & Rees;

(d) Defendants are required to pay Plaintiffs (or credit the deductible) for the time charged by Plaintiffs' attorney to get Gordon & Rees up to speed; and

(e) Defendants are required provide *cumis* counsel to Plaintiffs for the Employment Claim.

7. Prejudgment and post-judgment interest according to law;

8. For costs of suit; and

9. Plaintiffs' reasonable attorneys' fees and costs and expenses of this lawsuit; and

10. For such other and further relief as the Court deems just and proper.

Dated: June 10, 2015

GCA LAW PARTNERS LLP

By: Kathryn C. Curry

KATHRYN C. CURRY
KENNETH R. VAN VLECK
Attorneys for Plaintiffs
THE NORTHERN CALIFORNIA
GOLF ASSOCIATION and POPPY
HOLDINGS, INC.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

Dated: June 10, 2015

GCA LAW PARTNERS LLP

By: Kathryn C. Curry

KATHRYN C. CURRY
E. DAVID MARKS
Attorneys for Plaintiffs
THE NORTHERN CALIFORNIA
GOLF ASSOCIATION and POPPY
HOLDINGS, INC.

File No. 32571.318

CERTIFICATE OF SERVICE

The Northern California Golf Association, et al. v. Travelers Casualty and Surety Company Of America, et al.,
USDC – Northern District, San Jose Division Case No. _____

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and not a party to the action. My business address is 333 Bush Street, Suite 1100, San Francisco, California, 94104. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On July 14, 2015, I served the following document:

**DEFENDANT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA'S
NOTICE OF REMOVAL TO FEDERAL COURT**

I served the document on the following persons at the following address (including a fax number and email addresses, if applicable):

Kathryn C. Curry, Esq. E. David Marks, Esq. GCA Law Partners LLP 2570 W. El Camino Real, Suite 510 Mountain View, CA 94040 <i>Attorneys for Plaintiffs The Northern California Golf Association and Poppy Holding, Inc.</i>	Tel: 650.428.3900 Fax: 650.428.3901 Email: kcurry@gcalaw.com dmarks@gcalaw.com
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The document was served by the following means:

☒ (BY U.S. MAIL) I enclosed the document in a sealed envelope or package addressed to the persons at the address listed above and placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

Dated: July 14, 2015

/s/ Rosie Nebreda

Rosie Nebreda